

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4333 of 2022

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Sudist Baitha, son of Rambaran Baitha, Resident of village- Bhandar, Post Office - Bhandar, Police Station - Dhaka, District - East Champaran.

... .. Petitioner/s

Versus

1. The Indian Oil Corporation Limited through its Managing Director, having its registered office at G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai - 400051.
2. The Divisional Officer, Muzaffarpur Divisional Office Krishna Complex, Akharaghat Road, Muzaffarpur - 824001.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Karandeep Kumar, Advocate.

For the Respondent-IOCL : Mr. Sanat Kumar Mishra, Advocate.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PURNENDU SINGH)

Date : 17-11-2022

Heard Mr. Karandeep Kumar, learned counsel appearing on behalf of the petitioner and Mr. Sanat Kumar Mishra, learned counsel for the Respondent-IOCL.

2. The Respondent-Indian Oil Corporation Limited had issued an advertisement dated 25.11.2018 in daily newspaper for appointment of regular/rural retail outlet (petrol pump) dealership through draw of lots / bidding process at 1554 locations in respect of Muzaffarpur Division which includes District of Champaran, Siwan and Gopalganj. Instructions were contained in the application form and the candidates were required to get the detailed guidelines regarding bidding process from the website of Indian Oil Corporation Limited. The notice



advised the interested eligible applicants to go through the Selection Brochure dated 24.11.2018 for the terms and conditions for selection. The last date for submission of application was 24.12.2018. The petitioner edited the online application by opting RO **Group '3'** in place of **RO Group '1'**. In terms of advertisement, **Group '1'** applicant must have suitable piece of land in the advertised location/area either by way of ownership / long term lease for a period of minimum 19 years 11 months. The applicant of **Group '3'** are not required to offer land in the application and such applicant would be advised to offer land only in case no eligible candidate is found or no candidate get selected under **Group '1'** and **Group '2'**. The Selection process started and the petitioner was selected as no eligible applicant was found in **Group '1'** and was allowed to edit his online application form to opt **Group '3'** by offering land suitable for Rural RO. The land offered by the petitioner was near State Highway (S.H.) and not in rural area and the same was not found eligible in terms of the advertisement by the Land Evaluation Committee (LEC) by the Respondent-Company and the candidature of the petitioner was rejected with a liberty granted to him in filing representation. Cancellation of the candidature of the petitioner has led filing of the present writ



petition.

3. Learned counsel for the petitioner submitted that the petitioner is an Ex-Army man of 24th Border Security Force, belonging to Scheduled Caste category, had applied pursuant to the advertisement dated 25.11.2018 for Location No. 111, Division – Muzaffarpur, District – East Champaran, location description – Barharwa Siwan, Block – Dhaka, Type of RO – Rural, Mode of Selection – Draw of Lots, Category Name – SC, and claims to have fulfilled all the criteria as per the terms and conditions mentioned in the advertisement. He contends that on 20.07.2021 by draw of lots for selection of RO dealership for the aforesaid location was held and the petitioner was only candidate found to be eligible. The Oil Company declared him as selected and in respect thereof same was communicated to him through E-mail on 20.07.2021. The petitioner had deposited security money of Rs.20,000/-. The petitioner vehemently submitted that the petitioner had submitted the documents relating to the offered land situated in Mauja Barharwa Siwan, Thana No. 103, Khata No. 219, Khesra No. 1638 and Khata No. 65, Khesra No. 1642 and 1643, area 35.00 meter x 35.00 meter for establishment of rural outlet pursuant to the advertisement dated 25.11.2018. However, he was surprised to receive



rejection letter dated 21.12.2021 communicated to him on his e-mail that the Land Evaluation Committee (LEC) after evaluating the land/plot of the petitioner found the land to be situated alongside the State Highway No.54, which does not fulfill the criteria of RO. The concerned Respondent, however, directed the petitioner to file a representation against the rejection of his candidature within ten days. It is further submitted that the petitioner had filed his representation on 31.12.2021 within the prescribed period before the Sr. Divisional Retail Sales Manager, Muzaffarpur against the rejection of his candidature and on these basis, the petitioner submits that the authorities have arbitrarily rejected the candidature of the petitioner though he was selected by the committee. He further submitted that the Brochure prescribed by the Oil Company was not widely circulated and he being not a computer savvy had not downloaded the Brochure but he had believed that he possessed requisite criteria as laid down in the advertisement. The petitioner further submitted that as per his information the dealership of Barharwa, District-Siwan has not been allotted to any other candidate till date.

4. Learned counsel further informs this Court that he has no instruction as to whether his representation dated



31.12.2021 filed before the Senior Divisional Retail Sales Manager, Muzaffarpur has been disposed of by the concerned authority.

5. Learned counsel appearing on behalf the Respondent Oil Company submitted that The petitioner pursuant to the advertisement dated 25.11.2018 applied on 21.12.2018 for location under “Barharwa Siwan, Block Dhaka, District Champaran under SC category of RO – Rural” and did not offer any land for the RO for Group ‘3’. As per the provisions of the Selection Guidelines, subsequently the petitioner was asked vide letter dated 09.01.2020 to offer a land plot as per the locations in rural areas, not falling near the Highways (NH/SH etc.) and outside Municipal Limits of a town. The petitioner offered a plot bearing Khata No. 219, Khesra Nos. 1642, 1643 and 1638 by editing the online application form on the selection portal and claimed himself to be under Group 1 on 27.01.2020. The Company had received 2 such applicants who have claimed location under Group 1 (Applicants having suitable piece of land in the advertised location/area either by way of ownership/long term lease for a period of minimum 19 years 11 months or as advertised by the OMC). The other applicant was selected in draw and subsequently his candidature was rejected



on 15.07.2021 giving opportunity to the petitioner who was left alone in Group 1 and he was selected without any draw of lot since he was only applicant left in Group 1 after rejection of candidature of another applicant. The petitioner was communicated about his being selected for RO and was asked to submit documents mentioned in letter dated 20.07.2021. The petitioner edited his online application form on selection portal and offered land appertaining Khata No. 219, Khesra Nos. 1642, 1643 and 1638 claiming himself to be under Group '1' instead of location under Group '3'. The Land Evaluation Committee (LEC) constituted for evaluating the land found the said land situated near State Highway No.54. The petitioner had applied for rural location under Group-1, but has offered land/plot alongside State Highway. Accordingly his candidature was rejected for not fulfilling the requisite criteria, which was communicated to him vide e-mail letter dated 21.12.2021. The petitioner has been allowed to file representation against the rejection of his candidature within ten days. Petitioner is himself responsible for rejection of his candidature. It is further submitted by learned counsel appearing on behalf of the respondent that the allotment of dealership is conditional and the petitioner has declared in the application form that in case of



wrong information / misrepresentation / suppression of facts will make him ineligible for the RO dealership. Admittedly, in the present case, the petitioner even having rectified / edited his online application on the selection portal on 27.01.2020, but the land offered by him falls just near the State Highway.

6. Heard the parties.

7. The Respondent-Indian Oil Corporation Limited had issued an advertisement dated 25.11.2018 in daily newspaper for appointment of regular/rural retail outlet (petrol pump) dealership through draw of lots / bidding process at 1554 locations in respect of Muzaffarpur Division which includes District of Champaran, Siwan and Gopalganj. Instructions were contained in the application form and the candidates were required to get the detailed guidelines regarding bidding process from the website of Indian Oil Corporation Limited. The notice advised the interested eligible applicants to go through the Selection Brochure dated 24.11.2018 for the terms and conditions for selection. The last date for submission of application was 24.12.2018.

8. The main controversy in the present writ petition is that whether the petitioner fulfills the criterias as provided under **Clause 1 – Identification of Locations, Sub-Clause (ii)**



**– Rural ROs: Locations in rural areas but not on Highways
(NH/SH etc.) and outside Municipal Limits of a town.**

9. We find it necessary to reproduce the relevant Clause of the Brochure dated 24.11.2018 for Selection of Dealers for Regular and Rural Retail Outlets. The Subject contained therein relevant for the present case are as follows:

Sr. No.	Subject
	Introduction
1	Identification of Locations
2	Reservation
3	Type of Retail Outlet Sites
4	Eligibility Criteria for Individual Applicants
5	Eligibility Criteria for Non-Individual Applicants
6	Retail outlet management
7	Spouse as Co-owner
8	Basic facilities required for operation of RO dealership
9	Scheme of Financial Assistance to SC/ST Category Dealership
10	Disqualification
11	Affidavit
12	Non-refundable Application Fee
13	Non-refundable fixed fee / Bidding amount
14	Selection procedure
15	Field Verification of Credentials (FVC)
16	Letter of Intent
17	Selection process consequent to cancellation of candidature and withdrawal of LOI
18	Grievance Redressal System
19	Commissioning of Dealership
20	Security Deposit / Fixed fee / Bid amount
21	Tenure of Dealership
22	False Information
23	Detailed information in respect of advertisement hosted in Web site



24	Appendices
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10. **Clause ‘1’** relates to Identification of Location and the same is reproduced herein below:

1. IDENTIFICATION OF LOCATIONS

Locations for setting up Retail Outlets are identified by the respective oil company based on commercial / minimum volume considerations. Accordingly, Regular and Rural outlets are set up by Oil Marketing Companies (OMC) as under:-

- i) **Regular ROs:** Locations on Highways (National Highways/State Highways etc.) & Urban /Semi-Urban areas (Within Municipal Limits of a town) .
- ii) **Rural ROs:** Locations in rural areas but not on Highways (NH/SH etc.) and outside Municipal Limits of a town.

3. Type of Retail Outlet Sites

The type of sites will be decided by the Oil Companies and the same would be:-

S.N.	Type of Site	Status of Land & Facilities
i.	Locations under Corpus Fund Scheme (CFS sites)	The offered land would be taken on lease/purchased and fully developed as Corporation owned site.
ii.	Other Corporation Owned Sites (“CC”/ “A” sites)	The offered land would be taken on lease/purchased and fully developed as Corporation owned site.
iii.	Dealer Owned sites (“DC” / “B” sites)	The offered land and the super structure will be developed by the dealer. Pump, tank, automation, signages, etc. will be provided by the Corporation.

4. ELIGIBILITY CRITERIA FOR INDIVIDUAL APPLICANTS – PROPRIETORSHIP / PARTNERSHIP

Common Eligibility Criteria for all Categories applying as individual (as on date of application unless mentioned otherwise)

- (i) **Citizenship** : Indian Citizen.



(ii) **Residential Status** : Resident of India (as per the Income Tax Rules).

(iii) **Age** : Not less than 21 years and not more than 60 years except for Freedom Fighter under CC2 category.

Proof of age should be supported by copy of 10th Standard Board Certificate / Secondary School Leaving Certificate / Birth Certificate / Passport / Affidavit for age / Identity Card issued by Election Commission.

(iv) **Educational Qualification**: Passed minimum 10th (examination conducted by a Board/School).

Certificate issued by Armed Forces as equivalent to 10th Class Pass in accordance with Ministry of Personnel, Public Grievances and Pensions (Dept. of Personnel and Training) notification No. 15012/8/82-Estt(D) dated 12.02.1986 will also be considered.

For educational qualification from overseas universities / boards, equivalent certificate issued by competent authority / State Government / Government of India should be submitted by the applicants.

Minimum Educational qualification is not applicable to Freedom Fighters under CC2 category.

(v) Land (Applicable to all categories):

The applicants would be classified into three groups as mentioned below based on the land offered or land not offered by them in the application form:-

Group 1: Applicants having suitable piece of land in the advertised location/area either by way of ownership / long term lease for a period of minimum 19 years 11 months or as advertised by the OMC.

Group 2: Applicants having Firm Offer for a suitable piece of land for purchase or long term lease for a period of minimum 19 years 11 months or as advertised by the OMC.

Group 3: Applicants who have not offered land in the application.

Applications under Group 3 would be processed/advised to offer land only in case no eligible applicant is found or no applicant get selected under Group 1 & 2.

In case land offered by all the applicants under Group 1 & Group 2 is found not suitable/not meeting requirements, then these applicant/s under Group 1 & Group 2 along



with applicants under Group 3 (who did not offer land along with application) would be advised by the OMCs to provide suitable land in the advertised location / stretch, within a period of 3 months from the date of issuance of intimation letter to them through SMS/e-mail. In case the applicant fails to provide suitable land within the prescribed period or the land provided is found not meeting the laid down criteria, the application would be rejected.

The other conditions with respect to offering of land are as under:

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d) The applicant(s) under Group-1 should have documents to establish ownership of land offered for the Dealership as on date of application, such as:

- Khasra / Khatauni or any equivalent revenue document or certificate from revenue official confirming status of the ownership of the land
- Registered Sale deed/Registered Gift deed.
- Registered Lease deed for a minimum period of 19 years and 11 months (as advertised by respective oil company) .
- Any other type of ownership / transfer deed document
- Lease agreement or firm allotment letter issued by Government / Semi Government bodies

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k) Each applicant will have to declare, in the application form, the category under which offered land falls. Supporting the above, confirmatory letter from an advocate (Appendix III B) giving details of the current ownership, documents relied upon and the category under which the land falls (Group 1 or Group 2), **as on date of application**, is also to be furnished as and when advised. The Group under which the applicant's land falls, would be determined based on the declaration given in the application and confirmatory letter from the advocate regarding the same.

l) It should be the responsibility of the applicant to ensure that as on date of application:-

- i. Offered land is of required dimension and abutting the Road boundary, after leaving Right of Way (ROW) line of the road.
- ii. The offered land is also not notified for acquisition.



iii. Land owner is in Possession of the land from the beginning / edge of ROW line.

iv. There is no other land including Govt. land between ROW and offered plot.

Note : In case it is found at later stage that the offered plot is not meeting any of the above conditions then in such case the offered land would be rejected and candidate will be given opportunity along with applicants under Group 3 by intimation through SMS/e-mail.

Note 3 : Opportunity to offer alternate land after FVC/issuance of LOI

There may be a situation, where the land offered by the candidate in the application (including land/alternate land offered by Group 3/Group 1 & Group 2 applicants) meets all the specifications as laid down in the advertisement and on the basis of which LOI has been issued or proposed to be issued and the LOI holder or the selected candidate to whom LOI is proposed to be issued would like to offer an alternate land, due to whatsoever reason, such land may be considered by OMC subject to the alternate land meeting all specifications and is within the advertised location/stretch.

In case applicant is selected and LOI has not been issued then on receipt of application from the selected candidate offering alternate land, Land evaluation of the alternate land will be done and if the land is found suitable, then LOI will be issued mentioning the change in offered land.

In case alternate land is offered after issuance of LOI, a letter would be issued indicating acceptance of the alternate land offered, after Land evaluation (on land being found suitable) and this would be treated as addendum to LOI.

In case the alternate land offered by the selected candidate/LOI holder is accepted by the OMC and LOI/addendum to LOI is issued to the candidate, the alternate land accepted by OMC would be treated as final and no further changes shall be accepted (including the original site offered).

In case the alternate land offered by the selected candidate is found not meeting the laid down criteria, the selected candidate would be intimated on the same (through LOI) and LOI would be issued to the selected candidate referring to the originally offered land.

In case the alternate land offered by the LOI holder is found not meeting the laid down criteria, the LOI holder



would be intimated on the same through addendum to LOI. In such case, the time period to make available the land (original site offered along with the application) would remain valid as mentioned in the LOI from the date of issuance of letter (addendum to LOI) intimating rejection of alternate land.

This opportunity would be available to the LOI holder up to 90 days from the issuance of LOI.

The above mentioned opportunity can be availed by the selected candidate (after clearing FVC) / LOI holder only once.

11. We have already analyzed the condition and criteria laid down in the Advertisement as well as in the Brochure / Guidelines for Selection of Dealers for Regular and Rural Retail Outlets through Draw of Lots / Bidding Process. The petitioner had offered land falling under category Group '1' but had not offered any land in the application. Thereafter the petitioner had edited his application form claiming category Group '3' on line by offering land claimed by him to be falling under category Rural area RO dealership. The Land Evaluation Committee (LEC) had found that the land offered by the petitioner and the location of the offered land falls on State Highway. The petitioner was found to be not eligible for Selection and accordingly he was communicated vide e-mail dated 21.12.2021. In the said letter, he has been given opportunity to file representation against the rejection of his candidature within ten days. The petitioner has already filed his representation dated



31.12.2021 and as on date, neither the petitioner's counsel nor the Respondent's counsel is informed about the fact whether the said representation has been disposed of or not.

12. In such circumstances, without going into merits of the case, the Respondent No.2, the Divisional Officer, Muzaffarpur, Divisional Office is directed to dispose of the representation of the petitioner by passing a speaking order within a period of two months if he has not already disposed the representation and communicate the same to the petitioner. If any relaxation or discretion power is vested with the competent authority to revisit the grievance, the same shall be exercised sympathetically. In view of the fact that none of the person is allotted in respect of subject in issue.

13. Accordingly, present writ application is dismissed.

14. Any observation made hereinabove shall not affect while disposing of the representation of the petitioner.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	07.12.2022
Transmission Date	N.A.

